

**REMARKS**

This application has been carefully reviewed in view of the above-referenced Office Action, and reconsideration is requested in view of the following remarks.

**Regarding the Rejections Under 35 U.S.C. §103**

Claims 9, 16, 16, 29, 32, 33, 58, 60, 63 and 64 are rejected in view of the Sprunk (US Patent Application 2004/0123094), Chen (US Patent 5,9147,830), and Lu (US Patent Application 2002/0157115) references. Claims 8, 18, 28, 31, and 62 are rejected in view of the above references and further in view of Safadi (US Patent 6,883,050). These rejections are respectfully traversed.

In order to establish *prima facie* obviousness of the claims, it is the Patent Office's burden to apply the Graham v. John Deere, 383 U. S. 1 (1966) framework for applying the statutory language of §103 in making an objective analysis of obviousness. The Court stated that "under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented."

The Patent Office further has the burden of providing an articulated reasoning why one of ordinary skill in the art would find the proposed combination to be obvious per In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006) - "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). It is further noted that MPEP2141.02 clearly requires that the claim be considered as a whole. Such consideration requires that each and every claimed feature as well as its interconnection and relationship with the other features be considered in evaluation of the differences in the claim and the prior art as required in the Graham inquiries.

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The Sprunk reference relates to a system and method for the efficient distribution of encrypted content for a multiple content access system. The Chen et al references relates to a content insertion technique utilizing PID mapping. The Lu reference relates to receiving a stream from the host, decrypting packets, and encryption within a received stream of data at a user display device.

Regarding claims 63 and 64, claim 63 recites at least "re-encrypting the decrypted first packets and the clear packets, wherein the decrypted first packets and the clear packets comprise packets that have the first PID" and "sending a data stream with remapped packet identifiers from the CableCARD device back to the host." Claims 58 and 64 recite at least "an encrypter within the CableCARD device the re-encrypts the decrypted packets and the clear packets, wherein the decrypted packets and the clear packets comprise packets that have the same packet identifier" and "means within the CableCARD device for sending a data stream with re-encrypted packets back to the host." The Office Action admits on page 3 that the Sprunk reference does not disclose or teach remapping the PIDs to create a reassembled stream and re-encrypting the decrypted packets. The Office Action looks to the Chen reference to remedy the shortcoming of the Sprunk reference with regard to re-encrypting the decrypted packets, and to the Lu reference to remedy the shortcoming of the Sprunk reference with regard to re-encryption actions occurring within a CableCARD device, however, the Chen and Lu references do not remedy the shortcomings of the Sprunk reference singly or in combination.

The Office Action seems to assert that the Chen and Lu references teach "re-encrypting the decrypted first packets and the clear packets, wherein the decrypted first packets and the clear packets comprise packets that have the first PID" and "sending a data stream with remapped packet identifiers from the CableCARD device back to the host" in Col 6, lines 22-24 and Col 5, lines 41-44 of the Chen reference and paragraphs [0033], [0037] and [0041] of the Lu reference, however, they do not. The Chen reference details the configuration and construction of an encrypted data stream at a host site, such as a broadcaster, prior to transmitting the encrypted data stream out to all subscribers of the video service. The Chen reference is directed toward an aggregator of service and not individual subscribers. Thus, there is no disclosure or teaching for

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the "sending a data stream with remapped packet identifiers...back to the host" regardless of what equipment might be doing the repackaging because the Chen disclosure details the process for the repackaging and transmission of data streams from a satellite provider to individual users. There is no teaching for re-sending data, clear or encrypted, from individual users to the broadcaster. In Col 5, lines 33-35 Chen discloses "the received multiplex signal is processed at the integrated receiver by a demodulator and decryption function", and thus the decryption occurs at the aggregator site, not within the home of an individual subscriber. In addition, in Col 5, lines 44-48, Chen discloses "The multiplex of signals, including the signal with the inserted messages, is then received by the access network 140 and transmitted to the subscribers' homes for display at the VIU's home 160 as discussed in connection with FIG. 1", and thus the data stream is sent to the subscribers' homes for display with no suggestion, disclosure or teaching of "sending a data stream with remapped packet identifiers from the CableCARD device back to the host" as recited in claims 58, 63 and 64. Therefore, there is no suggestion, teaching or disclosure in the Chen reference for at least this claim feature of claims 58, 63 and 64.

The Office Action asserts that the Lu reference remedies the shortcomings of the Chen reference by asserting on page 3 "*Lu, which discloses a CableCARD device, clearly teaches having enhanced capabilities beyond the standard features normally found in a CableCARD device,*" and referencing paragraphs [0033], [0037] and [0041] as providing this disclosure. However, there is no disclosure in the above referenced paragraphs of Lu (much less an enabling disclosure) of what the enhanced capabilities of a CableCARD device might be or how they might teach "sending a data stream with remapped packet identifiers from the CableCARD device back to the host" as recited in claims 58, 63 and 64. Per *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) - "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." In this instance, it is not enough to simply allege that "enhanced capabilities" as asserted by the Office Action includes the specific recitation of the features in claims 58, 63 and 64, there must also be some articulated reasoning with some underpinning within the reference to support the legal conclusion of obviousness. The Office Action's conclusory statement that Lu "clearly teaches the recited claim features" simply

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because it discloses a CableCARD device and “enhanced capabilities” does not rise to the level required by the court in *In re Kahn*. Therefore, Lu, either singly or in combination with the Chen reference, does not provide the teaching to sustain a rejection for obviousness for the “sending a data stream with remapped packet identifiers from the CableCARD back to the host” as recited in claim 63, or “means within the CableCARD for sending a data stream with re-encrypted packets back to the host” as recited in claims 58 and 64. Thus, the combination of Chen and Lu does not provide the teachings necessary to sustain an obviousness rejection for claims 58, 63 and 64. Accordingly, reconsideration and allowance are respectfully requested.

Regarding claims 17 and 31, each of these claims recites “the remapping is carried out after the re-encrypting.” The Office Action admits on page 6 that Sprunk combined with Chen and Lu does not explicitly teach remapping encrypted packets and looks to the Hobrock et al (US Patent Application 2004/0247122) reference to remedy this lack. The Office Action seems to assert that this claim feature is disclosed in the Hobrock et al reference in paragraphs [0061] and [0062], however, it is not. The Hobrock et al reference, in the above referenced paragraphs, discloses the decryption and merging of multiple data streams which each contain multiple PIDs. These paragraphs are completely silent concerning re-encryption, and silent concerning “the remapping is carried out after the re-encrypting” claim feature as recited in claims 17 and 31. Paragraph [0062], for example, discloses “After decryption, transport packets in the merged stream are separated back into two transport streams based upon the range in which their new PID values occur. At the same time, the new PID values are replaced with the original PID values by reversing the mapping process.” This paragraph provides no teaching for the recited claim element as there is no disclosure of re-encryption at all, and certainly no disclosure of remapping the data streams *after the re-encrypting* (emphasis added) as recited in claims 17 and 31. Therefore, the Office Action’s assertion that Hobrock et al “clearly teaches remapping encrypted packets” is in error, as there is no re-encryption disclosed within the cited paragraphs. Thus, the combination of the Sprunk, Chen, Lu and Hobrock et al references do not provide the teachings to render claims 17 and 31 obvious, and no articulated reasoning has been advanced

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that is adequate to make up for these shortcomings. Reconsideration and allowance are respectfully requested.

Regarding claims 8-12, 15-18, 28-35 and 59-62, these claims each depend from one of independent claims 58, 63 or 64. In view of the above, it is clear that the combination of Sprunk, Chen et al, and Lu does not provide the teachings to render these claims obvious. The dependant claims are, therefore, allowable for at least the reasons shown for claims 58, 63 and 64. Other distinctions also exist for these dependent claims, but in view of the clear distinctions noted in the independent claims, further discussion of each dependent claim is believed unnecessary at this time. Accordingly, reconsideration and allowance are respectfully requested.

#### **Concluding Remarks**

The undersigned notes that many other distinctions exist between the cited art and the claims. However, in view of the clear distinctions pointed out above, further discussion is believed to be unnecessary at this time. Failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position or an admission of any sort. Applicant reserves the right to make further arguments in the future regarding any rejection if he deems such arguments advantageous.

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**Interview Request**

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. If further matters remain to be resolved, the undersigned respectfully requests the courtesy of an interview. The undersigned can be reached at the telephone number below.

Respectfully submitted,

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